

FIRST REGULAR SESSION

SENATE BILL NO. 182

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS KEHOE, WASSON, RICHARD, SILVEY,
LAGER, DEMPSEY AND McKENNA.

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TERRY L. SPIELER, Secretary.

0935S.02I

AN ACT

To repeal sections 32.087 and 144.757, RSMo, and to enact in lieu thereof two new sections relating to local taxes on motor vehicle sales, with an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 32.087 and 144.757, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 32.087 and 144.757, to
3 read as follows:

32.087. 1. Within ten days after the adoption of any ordinance or order
2 in favor of adoption of any local sales tax authorized under the local sales tax law
3 by the voters of a taxing entity, the governing body or official of such taxing
4 entity shall forward to the director of revenue by United States registered mail
5 or certified mail a certified copy of the ordinance or order. The ordinance or order
6 shall reflect the effective date thereof.

7 2. Any local sales tax so adopted shall become effective on the first day
8 of the second calendar quarter after the director of revenue receives notice of
9 adoption of the local sales tax, except as provided in subsection 18 of this section.

10 3. Every retailer within the jurisdiction of one or more taxing entities
11 which has imposed one or more local sales taxes under the local sales tax law
12 shall add all taxes so imposed along with the tax imposed by the sales tax law of
13 the state of Missouri to the sale price and, when added, the combined tax shall
14 constitute a part of the price, and shall be a debt of the purchaser to the retailer
15 until paid, and shall be recoverable at law in the same manner as the purchase
16 price. The combined rate of the state sales tax and all local sales taxes shall be

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 the sum of the rates, multiplying the combined rate times the amount of the sale.

18 4. The brackets required to be established by the director of revenue
19 under the provisions of section 144.285 shall be based upon the sum of the
20 combined rate of the state sales tax and all local sales taxes imposed under the
21 provisions of the local sales tax law.

22 5. **(1)** The ordinance or order imposing a local sales tax under the local
23 sales tax law shall impose upon all sellers a tax for the privilege of engaging in
24 the business of selling tangible personal property or rendering taxable services
25 at retail to the extent and in the manner provided in sections 144.010 to 144.525,
26 and the rules and regulations of the director of revenue issued pursuant thereto;
27 except that the rate of the tax shall be the sum of the combined rate of the state
28 sales tax or state highway use tax and all local sales taxes imposed under the
29 provisions of the local sales tax law.

30 **(2) Notwithstanding any other provision of law to the contrary,**
31 **the local sales tax shall be imposed on all sales, both at retail and any**
32 **other sale, of motor vehicles, trailers, boats, and outboard motors,**
33 **regardless of whether the sale of such motor vehicles, trailers, boats,**
34 **and outboard motors occurred within the state of Missouri or in any**
35 **other state. The rate of the tax for sales at retail under this subdivision**
36 **shall be the sum of the combined rate of the state sales tax on motor**
37 **vehicles authorized under section 144.020 and the local sales taxes**
38 **imposed under the local sales tax law, but the rate of the tax for all**
39 **other sales under this subdivision shall be the sum of the combined**
40 **rate of the state use tax on motor vehicles authorized under section**
41 **144.440 and the local sales taxes imposed under the local sales tax law.**

42 **(3) Notwithstanding the provisions of subdivision (2) of this**
43 **subsection or any other law to the contrary, a taxing entity in which**
44 **the voters have not passed a local use tax, under sections 144.757 to**
45 **144.761, may, if approved by the voters of such taxing entity, pursuant**
46 **to the applicable local sales tax law, repeal the application of the**
47 **taxing entity's local sales tax on any retail sale of motor vehicles,**
48 **trailers, boats, and outboard motors; however, this subdivision shall not**
49 **be construed to authorize the voters of any taxing entity to repeal the**
50 **application of any state sales or use tax.**

51 6. On and after the effective date of any local sales tax imposed under the
52 provisions of the local sales tax law, the director of revenue shall perform all

53 functions incident to the administration, collection, enforcement, and operation
54 of the tax, and the director of revenue shall collect in addition to the **state sales**
55 **tax, or state motor vehicle use tax as appropriate**, for the state of Missouri
56 all additional local sales taxes authorized under the authority of the local sales
57 tax law. All local sales taxes imposed under the local sales tax law together with
58 all taxes imposed under the **state sales tax law, or the state motor vehicle**
59 **use tax law as appropriate**, of the state of Missouri shall be collected together
60 and reported upon such forms and under such administrative rules and
61 regulations as may be prescribed by the director of revenue.

62 7. All applicable provisions contained in sections 144.010 to 144.525
63 governing the state sales tax and section 32.057, the uniform confidentiality
64 provision, shall apply to the collection of any local sales tax imposed under the
65 local sales tax law except as modified by the local sales tax law.

66 8. All exemptions granted to agencies of government, organizations,
67 persons and to the sale of certain articles and items of tangible personal property
68 and taxable services under the provisions of sections 144.010 to 144.525, as these
69 sections now read and as they may hereafter be amended, it being the intent of
70 this general assembly to ensure that the same sales tax exemptions granted from
71 the state sales tax law also be granted under the local sales tax law, are hereby
72 made applicable to the imposition and collection of all local sales taxes imposed
73 under the local sales tax law.

74 9. The same sales tax permit, exemption certificate and retail certificate
75 required by sections 144.010 to 144.525 for the administration and collection of
76 the state sales tax shall satisfy the requirements of the local sales tax law, and
77 no additional permit or exemption certificate or retail certificate shall be
78 required; except that the director of revenue may prescribe a form of exemption
79 certificate for an exemption from any local sales tax imposed by the local sales tax
80 law.

81 10. All discounts allowed the retailer under the provisions of the state
82 sales tax law for the collection of and for payment of taxes under the provisions
83 of the state sales tax law are hereby allowed and made applicable to any local
84 sales tax collected under the provisions of the local sales tax law.

85 11. The penalties provided in section 32.057 and sections 144.010 to
86 144.525 for a violation of the provisions of those sections are hereby made
87 applicable to violations of the provisions of the local sales tax law.

88 12. (1) For the purposes of any local sales tax imposed by an ordinance

89 or order under the local sales tax law, all sales, except the sale of motor vehicles,
90 trailers, boats, and outboard motors, shall be deemed to be consummated at the
91 place of business of the retailer unless the tangible personal property sold is
92 delivered by the retailer or his agent to an out-of-state destination. In the event
93 a retailer has more than one place of business in this state which participates in
94 the sale, the sale shall be deemed to be consummated at the place of business of
95 the retailer where the initial order for the tangible personal property is taken,
96 even though the order must be forwarded elsewhere for acceptance, approval of
97 credit, shipment or billing. A sale by a retailer's agent or employee shall be
98 deemed to be consummated at the place of business from which he works.

99 (2) For the purposes of any local sales tax imposed by an ordinance or
100 order under the local sales tax law, all sales of motor vehicles, trailers, boats, and
101 outboard motors, **regardless of whether the sale of such motor vehicles,**
102 **trailers, boats, and outboard motors occurred within the state of**
103 **Missouri or in any other state,** shall be deemed to be consummated at the
104 residence of the purchaser and not at the place of business of the retailer, or the
105 place of business from which the retailer's agent or employee works.

106 (3) For the purposes of any local tax imposed by an ordinance or under the
107 local sales tax law on charges for mobile telecommunications services, all taxes
108 of mobile telecommunications service shall be imposed as provided in the Mobile
109 Telecommunications Sourcing Act, 4 U.S.C. Sections 116 through 124, as
110 amended.

111 13. Local sales taxes imposed pursuant to the local sales tax law on the
112 purchase and sale of motor vehicles, trailers, boats, and outboard motors shall not
113 be collected and remitted by the seller, but shall be collected by the director of
114 revenue at the time application is made for a certificate of title, if the address of
115 the applicant is within a taxing entity imposing a local sales tax under the local
116 sales tax law.

117 14. The director of revenue and any of [his] **the director's** deputies,
118 assistants and employees who have any duties or responsibilities in connection
119 with the collection, deposit, transfer, transmittal, disbursement, safekeeping,
120 accounting, or recording of funds which come into the hands of the director of
121 revenue under the provisions of the local sales tax law shall enter a surety bond
122 or bonds payable to any and all taxing entities in whose behalf such funds have
123 been collected under the local sales tax law in the amount of one hundred
124 thousand dollars for each such tax; but the director of revenue may enter into a

125 blanket bond covering [himself] **the director** and all such deputies, assistants
126 and employees. The cost of any premium for such bonds shall be paid by the
127 director of revenue from the share of the collections under the sales tax law
128 retained by the director of revenue for the benefit of the state.

129 15. The director of revenue shall annually report on [his] **the**
130 management of each trust fund which is created under the local sales tax law and
131 administration of each local sales tax imposed under the local sales tax law. [He]
132 **The director of revenue** shall provide each taxing entity imposing one or more
133 local sales taxes authorized by the local sales tax law with a detailed accounting
134 of the source of all funds received by [him] **the director** for the taxing
135 entity. Notwithstanding any other provisions of law, the state auditor shall
136 annually audit each trust fund. A copy of the director's report and annual audit
137 shall be forwarded to each taxing entity imposing one or more local sales taxes.

138 16. Within the boundaries of any taxing entity where one or more local
139 sales taxes have been imposed, if any person is delinquent in the payment of the
140 amount required to be paid by [him] **such person** under the local sales tax law
141 or in the event a determination has been made against [him] **such person** for
142 taxes and penalty under the local sales tax law, the limitation for bringing suit
143 for the collection of the delinquent tax and penalty shall be the same as that
144 provided in sections 144.010 to 144.525. Where the director of revenue has
145 determined that suit must be filed against any person for the collection of
146 delinquent taxes due the state under the state sales tax law, and where such
147 person is also delinquent in payment of taxes under the local sales tax law, the
148 director of revenue shall notify the taxing entity in the event any person fails or
149 refuses to pay the amount of any local sales tax due so that appropriate action
150 may be taken by the taxing entity.

151 17. Where property is seized by the director of revenue under the
152 provisions of any law authorizing seizure of the property of a taxpayer who is
153 delinquent in payment of the tax imposed by the state sales tax law, and where
154 such taxpayer is also delinquent in payment of any tax imposed by the local sales
155 tax law, the director of revenue shall permit the taxing entity to join in any sale
156 of property to pay the delinquent taxes and penalties due the state and to the
157 taxing entity under the local sales tax law. The proceeds from such sale shall
158 first be applied to all sums due the state, and the remainder, if any, shall be
159 applied to all sums due such taxing entity.

160 18. If a local sales tax has been in effect for at least one year under the

161 provisions of the local sales tax law and voters approve reimposition of the same
162 local sales tax at the same rate at an election as provided for in the local sales
163 tax law prior to the date such tax is due to expire, the tax so reimposed shall
164 become effective the first day of the first calendar quarter after the director
165 receives a certified copy of the ordinance, order or resolution accompanied by a
166 map clearly showing the boundaries thereof and the results of such election,
167 provided that such ordinance, order or resolution and all necessary accompanying
168 materials are received by the director at least thirty days prior to the expiration
169 of such tax. Any administrative cost or expense incurred by the state as a result
170 of the provisions of this subsection shall be paid by the city or county reimposing
171 such tax.

144.757. 1. Any county or municipality, except municipalities within a
2 county having a charter form of government with a population in excess of nine
3 hundred thousand, may, by a majority vote of its governing body, impose a local
4 use tax if a local sales tax is imposed as defined in section 32.085 at a rate equal
5 to the rate of the local sales tax in effect in such county or municipality; provided,
6 however, that no ordinance or order enacted pursuant to sections 144.757 to
7 144.761 shall be effective unless the governing body of the county or municipality
8 submits to the voters thereof at a municipal, county or state general, primary or
9 special election a proposal to authorize the governing body of the county or
10 municipality to impose a local use tax pursuant to sections 144.757 to
11 144.761. Municipalities within a county having a charter form of government
12 with a population in excess of nine hundred thousand may, upon voter approval
13 received pursuant to paragraph (b) of subdivision (2) of subsection 2 of this
14 section, impose a local use tax at the same rate as the local municipal sales tax
15 with the revenues from all such municipal use taxes to be distributed pursuant
16 to subsection 4 of section 94.890. The municipality shall within thirty days of the
17 approval of the use tax imposed pursuant to paragraph (b) of subdivision (2) of
18 subsection 2 of this section select one of the distribution options permitted in
19 subsection 4 of section 94.890 for distribution of all municipal use taxes. **A local**
20 **use tax shall not be authorized to be imposed by any county or**
21 **municipality on the sale of any motor vehicle, trailer, boat, or outboard**
22 **motor.**

23 2. (1) The ballot of submission, except for counties and municipalities
24 described in subdivisions (2) and (3) of this subsection, shall contain substantially
25 the following language:

26 Shall the (county or municipality's name) impose a local use tax
27 at the same rate as the total local sales tax rate, currently (insert
28 percent), provided that if the local sales tax rate is reduced or raised by voter
29 approval, the local use tax rate shall also be reduced or raised by the same
30 action? A use tax return shall not be required to be filed by persons whose
31 purchases from out-of-state vendors do not in total exceed two thousand dollars
32 in any calendar year.

33 ☐ YES ☐ NO

34 If you are in favor of the question, place an "X" in the box opposite "YES". If you
35 are opposed to the question, place an "X" in the box opposite "NO".

36 (2) (a) The ballot of submission in a county having a charter form of
37 government with a population in excess of nine hundred thousand shall contain
38 substantially the following language:

39 For the purposes of enhancing county and municipal public safety, parks,
40 and job creation and enhancing local government services, shall the county be
41 authorized to collect a local use tax equal to the total of the existing county sales
42 tax rate of (insert tax rate), provided that if the county sales tax is repealed,
43 reduced or raised by voter approval, the local use tax rate shall also be repealed,
44 reduced or raised by the same voter action? Fifty percent of the revenue shall be
45 used by the county throughout the county for improving and enhancing public
46 safety, park improvements, and job creation, and fifty percent shall be used for
47 enhancing local government services. The county shall be required to make
48 available to the public an audited comprehensive financial report detailing the
49 management and use of the countywide portion of the funds each year. A use tax
50 is the equivalent of a sales tax on purchases from out-of-state sellers by in-state
51 buyers and on certain taxable business transactions. A use tax return shall not
52 be required to be filed by persons whose purchases from out-of-state vendors do
53 not in total exceed two thousand dollars in any calendar year.

54 ☐ YES ☐ NO

55 If you are in favor of the question, place an "X" in the box opposite "YES". If you
56 are opposed to the question, place an "X" in the box opposite "NO".

57 (b) The ballot of submission in a municipality within a county having a
58 charter form of government with a population in excess of nine hundred thousand
59 shall contain substantially the following language:

60 Shall the municipality be authorized to impose a local use tax at the same
61 rate as the local sales tax by a vote of the governing body, provided that if any

62 local sales tax is repealed, reduced or raised by voter approval, the respective
63 local use tax shall also be repealed, reduced or raised by the same action? A use
64 tax return shall not be required to be filed by persons whose purchases from
65 out-of-state vendors do not in total exceed two thousand dollars in any calendar
66 year.

67 ☐ YES ☐ NO

68 If you are in favor of the question, place an "X" in the box opposite "YES". If you
69 are opposed to the question, place an "X" in the box opposite "NO".

70 (3) The ballot of submission in any city not within a county shall contain
71 substantially the following language:

72 Shall the (city name) impose a local use tax at the same rate as
73 the local sales tax, currently at a rate of (insert percent) which includes
74 the capital improvements sales tax and the transportation tax, provided that if
75 any local sales tax is repealed, reduced or raised by voter approval, the respective
76 local use tax shall also be repealed, reduced or raised by the same action? A use
77 tax return shall not be required to be filed by persons whose purchases from
78 out-of-state vendors do not in total exceed two thousand dollars in any calendar
79 year.

80 ☐ YES ☐ NO

81 If you are in favor of the question, place an "X" in the box opposite "YES". If you
82 are opposed to the question, place an "X" in the box opposite "NO".

83 (4) If any of such ballots are submitted on August 6, 1996, and if a
84 majority of the votes cast on the proposal by the qualified voters voting thereon
85 are in favor of the proposal, then the ordinance or order and any amendments
86 thereto shall be in effect October 1, 1996, provided the director of revenue
87 receives notice of adoption of the local use tax on or before August 16, 1996. If
88 any of such ballots are submitted after December 31, 1996, and if a majority of
89 the votes cast on the proposal by the qualified voters voting thereon are in favor
90 of the proposal, then the ordinance or order and any amendments thereto shall
91 be in effect on the first day of the calendar quarter which begins at least
92 forty-five days after the director of revenue receives notice of adoption of the local
93 use tax. If a majority of the votes cast by the qualified voters voting are opposed
94 to the proposal, then the governing body of the county or municipality shall have
95 no power to impose the local use tax as herein authorized unless and until the
96 governing body of the county or municipality shall again have submitted another
97 proposal to authorize the governing body of the county or municipality to impose

98 the local use tax and such proposal is approved by a majority of the qualified
99 voters voting thereon.

100 3. The local use tax may be imposed at the same rate as the local sales
101 tax then currently in effect in the county or municipality upon all transactions
102 which are subject to the taxes imposed pursuant to sections 144.600 to 144.745
103 within the county or municipality adopting such tax; provided, however, that if
104 any local sales tax is repealed or the rate thereof is reduced or raised by voter
105 approval, the local use tax rate shall also be deemed to be repealed, reduced or
106 raised by the same action repealing, reducing or raising the local sales tax.

107 4. For purposes of sections 144.757 to 144.761, the use tax may be
108 referred to or described as the equivalent of a sales tax on purchases made from
109 out-of-state sellers by in-state buyers and on certain intrabusiness
110 transactions. Such a description shall not change the classification, form or
111 subject of the use tax or the manner in which it is collected.

Section B. Because of the need to ensure that sufficient revenues are
2 generated for local governments and to ensure that domestic motor vehicle
3 dealers, outboard motor dealers, boat dealers, and trailer dealers are not put at
4 a competitive disadvantage, section A of this act is deemed necessary for the
5 immediate preservation of the public health, welfare, peace and safety, and is
6 hereby declared to be an emergency act within the meaning of the constitution,
7 and section A of this act shall be in full force and effect upon its passage and
8 approval.

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